

REMARKS

This is a full and timely response to the non-final Official Action mailed **August 5, 2008** (the “Office Action” or “Action”). Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

Request for Continued Examination (RCE):

Applicant hereby requests Continued Examination for this application and entry and consideration of this amendment consequent thereto.

Claim Status:

By the forgoing amendment, various claims have been amended. Additionally, claims 52-69, and 71 have been cancelled without prejudice or disclaimer. No new claims are added. Thus, claims 1-7, 10-31, 34-43, 46-51, 70, 72-77 and 80-84 are currently pending for further action.

Prior Art:

Rejections under 35 U.S.C. §102(b):

Claims 14-17 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0040475 to Yap et al. (hereinafter Yap). For at least the following reasons, this rejection should be reconsidered and withdrawn.

Claim 14:

Claim 14 recites:

A user interface for a television set connected to at least one recording device and at least one source of audiovisual programming, said user interface comprising:
a first window associated with a source of audiovisual programming; and

a second window associated with a connected recording device;
wherein said first window displays an electronic program guide for said source of audiovisual programming, *and said second window lists programs selected for future recording by a user from said electronic program guide.*
(Emphasis added).

Support for the amendment to claim 14 can be found in Applicant's originally filed specification at, for example, paragraphs [0044] and [0045].

Yap does not teach a user interface for a television set comprising a second window which "lists programs selected *for future recording* by a user from said electronic program guide." (Claim 14) (emphasis added). In the Office Action, the Examiner stated that Yap teaches a user interface for a television set comprising a second window which lists programs selected by a user from an electronic program guide. (*Action*, p. 3). However, Yap merely discloses

As described above in conjunction with FIG. 3, *a user may select a single or multiple recorded events from a program guide or scheduler, such as EPG 85, for viewing* based on actors, actresses, directors, program title, key words, key phrases, synopsis, release date, critical review, related programs, sequels, a thumbnail, a preview, a snippet, or other information concerning or relating to the content.

Alternatively, *the user may initiate a browse function to search a listing of programs stored on HDD 320*, which may be organized alphabetically, by category of program (i.e., drama, comedy, action adventure, etc.) and/or by organizational structure created by the user. For example, a user may assign "record channel" numbers to various recorded programs, whereby the user may click up or down a channel listing menu screen to select a desired channel. *Once selected, the screen may display a listing of recorded programming assigned to that channel, grouped by key word such as title, for example.*
(*Yap*, paras. [0186] and [0187]) (emphasis added).

In other words Yap teaches a method of selecting one or more events from an electronic program guide, and, alternatively, selecting and displaying one or more *previously recorded* events.

In contrast, the present application teaches a second window that lists programs *selected for future recording* by a user from an electronic program guide. Yap does not teach or suggest allowing a user to select events from an electronic program guide *for future recording* and display those selected events on a second window as a means of confirmation to the user.

“A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). See M.P.E.P. § 2131. Therefore, for at least the reasons explained here, the rejection based on Yap of claim 14 and its dependent claims should be reconsidered and withdrawn.

Rejections under 35 U.S.C. §103(a):

In the recent Office Action, claims 1-7, 10-13, 18-31, 34-43, 46-51, and, presumably claims 68 and 69 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yap in view of U.S. Patent No. 5,986,650 to Ellis et al. (hereinafter Ellis). For at least the following reasons, this rejection should be reconsidered and withdrawn.

Firstly, the Examiner failed to address claims 68 and 69 in this portion of the Office Action. Claims 68 and 69 are, however, addressed in a later rejection. (*Action, pp. 9-10 and 13*). However, claims 68 and 69 have been canceled in the present paper, thus rendering the rejection thereof moot.

Claims 1, 18, and 36:

Claim 1 recites:

A user interface for a television set connected to at least one recording device and at least one source of audiovisual programming, said user interface comprising:
a first window associated with a source of audiovisual programming;
a first identifier displayed in association with said first window identifying said source of audiovisual programming associated with said first window from among a plurality of sources of audiovisual programming;
a second window associated with a connected recording device; and
a second identifier displayed in association with said second window identifying said connected recording device associated with said second window;
wherein said first window displays said audiovisual programming from said source of audiovisual programming.

(Emphasis added).

Similarly, claim 18 recites:

A video display device comprising:
a screen;
a user interface displayed on said screen; and
a connection to at least one recording device and at least one source of audiovisual programming;
wherein said user interface comprises a first window associated with a source of audiovisual programming, and a second window associated with a connected recording device;
wherein *a first identifier is displayed in association with said first window identifying said source of audiovisual programming* associated with said first window from among a plurality of sources of audiovisual programming; and
wherein *a second identifier is displayed in association with said second window identifying said connected recording device* associated with said second window; and
wherein an electronic programming guide for said source of audiovisual programming associated with said first window is selectively displayed in said first window and a list of programs selected from said electronic programming guide to be recorded by said recording device associated with said second window is displayed in said second window when said electronic programming guide is displayed in said first window.

(Emphasis added).

Finally, claim 36 similarly recites:

Processor-readable instructions stored on a processor-readable medium, said instructions, when executed, providing an on-screen user interface for a video display device, said user interface comprising:

a first window associated with a source of audiovisual programming connected to said video display device;
a first identifier displayed in association with said first window identifying said source of audiovisual programming associated with said first window from among a plurality of sources of audiovisual programming;
a second window associated with a recording device connected to said video display device; and
a second identifier displayed in association with said second window identifying said connected recording device associated with said second window.
(Emphasis added).

In contrast to these claims, Ellis does not teach or suggest a first identifier for identifying a source of audiovisual programming as disclosed in the present application. As conceded by the Examiner, Yap does not disclose a first identifier displayed in association with a first window identifying a source of audiovisual programming, and a second identifier displayed in association with a second window identifying a connected recording device. (*Action*, p. 5). Further, contrary to the position taken by the Office Action, Ellis also does not teach or suggest a first identifier displayed in association with a first window identifying a source of audiovisual programming, and a second identifier displayed in association with a second window identifying a connected recording device. Ellis teaches:

When viewing program schedule information for a future time in the BROWSE mode, the displayed time of airing 121 of the particular show 122 is highlighted, *as well as the channel number and service indicator 123, as shown in FIG. 8A*. Such highlighted information reminds the user that he is viewing program schedule information for a future time.
(Ellis, col. 13, ll. 40-45) (emphasis added).

Further, as can readily be seen in Fig. 8A of Ellis, element 123 merely indicates which channel and service (i.e. the Disney channel) is being searched. This indication of “channel number and service indicator” cannot be analogized to the claimed indicator which indicates a *source* of audiovisual programming.

The claims of the present application must be construed in light of the specification. In other words, the meaning of words used in the claims is determined by the meaning given

to those words in the specification. *Markman v. Westview Instruments*, 116 S. Ct. 1384 (1996); *McGill, Inc. v. John Zink Co.*, 736 F.2d 666, 674 (Fed. Cir. 1984); *ZMI Corp. v. Cardiac Resuscitator Corp.* 884 F.2d 1576, 1580, 6 U.S.P.Q.2d 1557, 1560-61 (Fed. Cir. 1988) ("words must be used in the same way in both the claims and the specification."). Specifically, as described in the present application, a plurality of audiovisual programming sources may be available. The present application discloses that a source of audiovisual programming may include a cable system, satellite system, or an attached recording device. (*Applicant's Original Specification*, paras. [0028], and [0046]-[0048]).

Therefore, in contrast to the sources of audiovisual programming disclosed in the present application, Ellis simply teaches channels provided from a single source. Therefore, Ellis cannot teach the first identifier displayed in association with said first window identifying a source of audiovisual programming. In like matter, Yap utterly fails to teach what Ellis lacks.

Further, Ellis utterly fails to teach a second identifier displayed in association with a second window identifying a connected recording device. This subject matter is entirely outside the scope of Ellis.

Under the analysis required by *Graham v. John Deere*, 383 U.S. 1 (1966) to support a rejection under § 103, the scope and content of the prior art must first be determined, followed by an assessment of the differences between the prior art and the claim at issue in view of the ordinary skill in the art. In the present case, the scope and content of the prior art, as evidenced by Yap and Ellis, did not include the claimed subject matter, particularly a first identifier displayed in association with a first window identifying a source of audiovisual programming, and a second identifier displayed in association with a second window identifying a connected recording device.

The differences between the cited prior art and the claimed subject matter are significant because the prior art does allow for a user-friendly method or system of identifying which of a plurality of audiovisual sources are currently being utilized, nor does the prior art allow for a user-friendly method or system of identifying which of a plurality of recording devices are currently being utilized. Thus, the claimed subject matter provides features and advantages not known or available in the cited prior art. Consequently, the cited prior art will not support a rejection of claims 1, 18 and, 36 under 35 U.S.C. § 103 and Graham.

In the recent Office Action, claims 52-67, and, presumably claims 68 and 69 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yap in view of U.S. Patent No. 5,485,221 to Banker et al. (hereinafter Banker). The rejection of these claims is now moot due to the cancelation of these claims in the present paper.

In the recent Office Action, claims 70-77, and 80-84 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yap in view of Ellis and in further view of Banker. For at least the following reasons, this rejection should be reconsidered and withdrawn.

Claim 70:

Claim 70 recites:

An audiovisual device in communication with at least one recording device, said audiovisual device comprising:
a user input device; and
a user interface displayed on said audiovisual device;
wherein said user interface comprises a first window associated with a source of audiovisual programming, and a second window associated with said recording device;
wherein said user interface further comprises a first identifier displayed in association with said first window identifying said source of audiovisual programming

associated with said first window from among a plurality of sources of audiovisual programming and a second identifier displayed in association with said second window identifying said connected recording device associated with said second window; and

wherein said second window displays said audiovisual programming in response to a record command, such that both said first and second windows each display said audiovisual programming from said source of audiovisual programming associated with said first window to indicate that said recording device is recording said audiovisual programming associated with said first window.

(Emphasis added).

Support for the amendment to claim 70 can be found in Applicant's originally filed specification at, for example, paragraph [0034].

In addition to the arguments in favor of patentability in connection with claims 1, 18, and 36, above, claim 70 is patentable over the combined teachings of Yap, Ellis, and Banker. Specifically, in contrast to claim 70, Yap, Ellis, and Banker utterly fail to teach or suggest an audiovisual device wherein a second window displays audiovisual programming in response to a record command, such that both a first window and the second window each display the audiovisual programming from the source of audiovisual programming associated with the first window to indicate that a recording device is recording the audiovisual programming associated with the first window.

Under the analysis required by *Graham v. John Deere*, 383 U.S. 1 (1966) to support a rejection under § 103, the scope and content of the prior art must first be determined, followed by an assessment of the differences between the prior art and the claim at issue in view of the ordinary skill in the art. In the present case, the scope and content of the prior art, as evidenced by Yap, Ellis, and Banker, did not include the claimed subject matter, particularly an audiovisual device wherein a second window displays audiovisual programming in response to a record command, such that both a first window and the second window each display the audiovisual programming from the source of audiovisual

programming associated with the first window to indicate that a recording device is recording the audiovisual programming associated with the first window.

The differences between the cited prior art and the claimed subject matter are significant because none of the prior art references allow for a user-friendly method or system of confirming the recording of audiovisual programming. Thus, the claimed subject matter provides features and advantages not known or available in the cited prior art. Consequently, the cited prior art will not support a rejection of claim 70 under 35 U.S.C. § 103 and Graham.

Additionally, various dependent claims of the application recite subject matter that is further patentable over the cited prior art. Specific, non-exclusive examples follow.

Claim 10:

Claim 10 recites “controls associated with said second window, wherein a record command issued using said controls is a command for said recording device associated with said second window to record from said source of audiovisual programming associated with said first window.” In contrast, this subject matter is not taught or suggested by Yap or Ellis. Consequently, the rejection of claim 10 and any similar claims should be reconsidered and withdrawn.

Claim 12:

Building on claim 10, claim 12 recites “wherein said second window displays said audiovisual programming in response to said record command, such that both said first and second windows each display said audiovisual programming from said source of audiovisual programming associated with said first window to indicate that said recording device is

recording said audiovisual programming associated with said first window.” In contrast, this subject matter is not taught or suggested by Yap or Ellis. Similar arguments have been made in favor of the patentability of claim 70. Consequently, the rejection of claim 12 and any similar claims should be reconsidered and withdrawn.

Conclusion:

In view of the foregoing arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicant reserves the right to set forth further arguments in future papers supporting the patentability of any of the claims, including the separate patentability of the dependent claims not explicitly addressed herein. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed.

The absence of a reply to a specific rejection, issue or comment in the Office Action does not signify agreement with or concession of that rejection, issue or comment. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

If the Examiner has any comments or suggestions which could place this application in better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

If any fees are owed in connection with this paper that have not been elsewhere authorized, authorization is hereby given to charge those fees to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC.

Respectfully submitted,

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